

SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

SUSSEX COUNTY COURTHOUSE
1 The Circle, Suite 2
GEORGETOWN, DE 19947

January 29, 2009

Katherine L. Sturgis
SBI #
Baylor Women's Correctional Institution
660 Baylor Blvd.
New Castle, DE 19720

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Assistant Public Defender
Office of the Public Defender
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Deputy Attorney general
Delaware Department of Justice
114 E. Market Street
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RE: State of Delaware v. Katherine L. Sturgis
Def ID. # 0701001551
Letter Opinion

Date Submitted: September 4, 2008

Dear Counsel and Ms. Sturgis:

This is my decision on Katherine L. Sturgis' motion for postconviction relief. The State of Delaware charged Sturgis with Robbery in the First Degree, Assault in the First Degree, Possession of a Deadly Weapon by a Person Prohibited, Possession of Drug Paraphernalia, and two counts of Possession of a Deadly Weapon During the Commission of a Felony. The charges arose out of Sturgis' assault and robbery of her elderly neighbor. Sturgis went to her neighbor's house in an effort to obtain money. After Sturgis' neighbor refused to give her any money, Sturgis struck her neighbor in the face with a hammer. Sturgis then stole 14 dollars from her neighbor and fled.

Sturgis pled guilty to Robbery in the First Degree, Assault in the First Degree, and Possession

of a Deadly Weapon During the Commission of a Felony. The State dropped the remaining three charges. I sentenced Sturgis to 29 years at Supervision Level V, suspended after serving 10 years at Supervision Level V for probation. The State was represented by Martin J. Cosgrove, Jr., Esquire. Sturgis was represented by Robert H. Robinson, Jr., Esquire. This is Sturgis' first motion for postconviction relief and it was filed in a timely manner. Therefore, there are no procedural bars to her motion.¹ Sturgis alleges that (1) Robinson was ineffective, and (2) her plea was involuntary. Cosgrove and Robinson have both submitted affidavits in this matter.

I. Ineffective Assistance of Counsel

Sturgis claims that Robinson was ineffective because he (1) only had one case review, (2) did not negotiate a plea that falls within the acceptable guidelines of equal treatment, and (3) provided erroneous advice resulting in her receiving a more severe sentence. In order to prevail on her claims of ineffective assistance of counsel, Sturgis must show (1) that Robinson's actions fell below an objective standard of reasonableness; and (2) there exists a reasonable probability that, but for Robinson's errors, Sturgis would not have pled guilty.² Mere allegations of ineffectiveness will not suffice. Sturgis must make specific allegations of actual prejudice and substantiate them.³ Moreover, any review of Robinson's representation is subject to a strong presumption that his representation of Sturgis was professionally reasonable.⁴

¹ *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

² *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 80 L.Ed.2d 674 (1984); *Wright v. State*, 671 A.2d 1353, 1356 (Del. 1996).

³ *Wright*, 671 A.2d at 1356; *Younger v. State*, 580 A.2d at 555-56.

⁴ *Flamer v. State*, 585 A.2d 736, 753 (Del. 1990).

A. Case Review

Sturgis alleges that Robinson was ineffective because he only held one case review due to a conflict in his schedule. This allegation is not supported by the record. The first case review was held on April 2, 2007. During this case review, the final case review was scheduled for May 23, 2007. Sturgis accepted the State's plea offer on May 23, 2007. There is simply no evidence in the record to support Sturgis' argument that she did not have the standard two case reviews. Moreover, even if Sturgis only had one case review, she has not stated how having more case reviews would have made a difference. Therefore, her allegations are conclusory and without merit.

B. The Plea

Sturgis alleges that Robinson was ineffective because he allegedly did not negotiate a plea that fell within the acceptable guidelines of equal treatment. I have concluded that Robinson's actions did not leave Sturgis with no choice but to take the State's plea offer. Therefore, it was Sturgis' choice to take the State's plea offer or go to trial. She chose to take the State's plea offer and now must live with her decision.

C. Robinson's Advice

Sturgis alleges that but for Robinson's erroneous advice, she would have received a better sentence. Sturgis does not state what erroneous advice she received. Therefore, her allegations are conclusory and without merit.

II. Involuntary Plea

Sturgis claims that her plea was involuntary. The plea colloquy, as set forth below, indicates otherwise.

The Court: Ms. Sturgis, I understand you have decided to plead guilty to charges of robbery in the first degree, assault in the first degree, and possession of a deadly weapon during the commission of a felony. Is that what you have decided to do?

The Defendant: Yes.

The Court: Do you understand the nature of each of those offenses?

The Defendant: Yes.

The Court: Do you understand the maximum periods of incarceration that you face for each offense?

The Defendant: Yes.

The Court: Do you understand the minimum periods you face?

The Defendant: Yes.

The Court: You must serve at least seven years in jail as a minimum. Do you understand that, ma'am?

The Defendant: Yes.

The Court: Do you understand the rights that you are waiving by pleading guilty?

The Defendant: Yes.

The Court: Did anybody force you to take this plea?

The Defendant: No.

The Court: Did anybody promise you anything in exchange for this plea?

The Defendant: No.

The Court: Did you commit the three offenses you are pleading guilty to?

The Defendant: Yes.⁵

Sturgis is bound by the statements she made during the plea colloquy.⁶ The plea colloquy indicates that Sturgis understood the nature of the charges against her, understood the minimum and maximum periods of incarceration she faced, understood the rights she was waiving as a result of pleading guilty, and was not being forced to take the plea. There is simply no merit to her argument that she did not understand what she was doing.

⁵ Tr. at 3-5.

⁶ *State v. Adkins*, 2005 WL 1384307 (Del. Super. May 18, 2005).

CONCLUSION

Katherine L. Sturgis' Motion for Postconviction Relief is DENIED.

IT IS SO ORDERED.

Very truly yours,

E. Scott Bradley

cc: Prothonotary's Office